

BILL ANALYSIS

C.S.H.B. 225
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Reports indicate that the number of deaths related to drug overdoses in Texas has increased over the past 15 years. Interested parties contend that many of these deaths could be prevented by summoning emergency medical assistance in a timely manner. These parties further assert that the proper authorities are more likely to be contacted if individuals are not concerned about potential prosecution for the possession of controlled substances. Recently enacted legislation established certain legal protections for individuals under the age of 21 who call emergency medical services during a possible alcohol overdose, and it has been suggested that similar protection should be afforded to those who seek help in situations related to drug overdose. C.S.H.B. 225 seeks to remove barriers that might deter an individual from taking action that would prevent a drug overdose death.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 225 amends the Health and Safety Code to establish a defense to prosecution for the following offenses under the Texas Controlled Substances Act, the Texas Dangerous Drug Act, and statutory provisions relating to abusable volatile chemicals if the actor requested emergency medical assistance in response to the possible overdose of the actor or another person; was the first person to make such a request; and, if the actor made such a request in response to the possible overdose of another person, remained on the scene until the medical assistance arrived and cooperated with medical assistance and law enforcement personnel:

- possession of a substance listed in Penalty Group 1, 1-A, 2, 2-A, 3, or 4 of the Texas Controlled Substances Act;
- manufacture, delivery, or possession of a controlled substance listed in a schedule by an action of the commissioner of state health services under the act but not listed in a penalty group;
- possession of marihuana;
- possession or delivery of drug paraphernalia;
- possession of a dangerous drug; and
- possession and use of an abusable volatile chemical.

C.S.H.B. 225 authorizes a health care professional, directly or by standing order, to prescribe, dispense, or distribute an opioid antagonist to a person at risk of experiencing an opioid-related

drug overdose or to a family member, friend, or other person in a position to assist such a person. The bill specifies that a prescription of an opioid antagonist as authorized by the bill's provisions is considered issued for a legitimate medical purpose in the usual course of professional practice. The bill establishes that a health care professional who, acting with reasonable care, prescribes or dispenses an opioid antagonist is not subject to any criminal or civil liability or any professional disciplinary action for prescribing or dispensing the opioid antagonist or for any outcome resulting from the eventual administration of the opioid antagonist.

C.S.H.B. 225 authorizes a person or organization acting under a standing order issued by a health care professional to store an opioid antagonist and to dispense an opioid antagonist, provided the person or organization does not request or receive compensation for storage or dispensation. The bill authorizes any person to possess an opioid antagonist, regardless of whether the person holds a prescription for the opioid antagonist. The bill requires a pharmacist that provides an opioid antagonist to a person to offer counseling to the person about overdose recognition and prevention and about the administration of opioid antagonists, patient responses, and potential side effects.

C.S.H.B. 225 establishes that a person who, acting with reasonable care, administers an opioid antagonist to another person whom the person believes is suffering an opioid-related drug overdose is not subject to criminal prosecution, sanction under any professional licensing statute, or civil liability for an act or omission resulting from the administration of the opioid antagonist. The bill authorizes emergency services personnel to administer an opioid antagonist to a person who appears to be suffering an opioid-related drug overdose, as clinically indicated.

C.S.H.B. 225 requires a person, state agency, or political subdivision of the state that provides opioid antagonists to emergency services personnel for use in the regular course of providing emergency services to provide those personnel with a course of instruction about overdose recognition and prevention and about the administration of opioid antagonists, patient responses, and potential side effects. The bill authorizes the Health and Human Services Commission and the criminal justice division of the governor's office to issue grants for drug overdose prevention; recognition and response education for individuals, family members, and emergency services personnel; and opioid antagonist prescription or distribution projects. The bill establishes that the bill's provisions relating to opioid antagonists control to the extent of a conflict with another law.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 225 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 481.115, Health and Safety Code, is amended.

SECTION 2. Section 481.1151, Health and Safety Code, is amended.

SECTION 3. Section 481.116, Health

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

and Safety Code, is amended.

SECTION 4. Section 481.1161, Health and Safety Code, is amended.

SECTION 5. Section 481.117, Health and Safety Code, is amended.

SECTION 6. Section 481.118, Health and Safety Code, is amended.

SECTION 7. Section 481.119, Health and Safety Code, is amended.

SECTION 8. Section 481.121, Health and Safety Code, is amended.

SECTION 9. Section 481.125, Health and Safety Code, is amended.

SECTION 10. Section 483.041, Health and Safety Code, is amended.

SECTION 11. Section 485.031, Health and Safety Code, is amended.

No equivalent provision.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Chapter 483, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. OPIOID ANTAGONISTS
Sec. 483.101. DEFINITIONS. In this subchapter:

(1) "Emergency services personnel" includes firefighters, police officers and other peace officers, emergency medical services personnel as defined by Section 773.003, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

(2) "Health care professional" means a person authorized by law to prescribe an opioid antagonist.

(3) "Opioid antagonist" means any drug that binds to opioid receptors and blocks or disinhibits the effects of opioids acting on

those receptors.

(4) "Opioid-related drug overdose" means a condition, evidenced by symptoms such as extreme physical illness, decreased level of consciousness, respiratory depression, or coma, that a layperson would reasonably believe to be the result of the consumption or use of an opioid.

Sec. 483.102. PREScription OF OPIOID ANTAGONIST; STANDING ORDER. (a) A health care professional may, directly or by standing order, prescribe, dispense, or distribute an opioid antagonist to:

- (1) a person at risk of experiencing an opioid-related drug overdose; or
- (2) a family member, friend, or other person in a position to assist a person described by Subdivision (1).

(b) A prescription issued under this section is considered as issued for a legitimate medical purpose in the usual course of professional practice.

(c) A health care professional who, acting with reasonable care, prescribes or dispenses an opioid antagonist is not subject to any criminal or civil liability or any professional disciplinary action for:

- (1) prescribing or dispensing the opioid antagonist; or
- (2) any outcome resulting from the eventual administration of the opioid antagonist.

Sec. 483.103. DISTRIBUTION OF OPIOID ANTAGONIST; STANDING ORDER. A person or organization acting under a standing order issued by a health care professional may store an opioid antagonist and may dispense an opioid antagonist, provided the person or organization does not request or receive compensation for storage or dispensation.

Sec. 483.104. POSSESSION OF OPIOID ANTAGONIST. Any person may possess an opioid antagonist, regardless of whether the person holds a prescription for the opioid antagonist.

Sec. 483.105. DUTY OF PHARMACISTS. A pharmacist that provides an opioid antagonist to a person shall offer counseling to the person about:

- (1) overdose recognition and prevention; and
- (2) the administration of opioid antagonists, patient responses, and potential side effects.

Sec. 483.106. ADMINISTRATION OF OPIOID ANTAGONIST. (a) A person who, acting with reasonable care, administers an opioid antagonist to another person whom the

person believes is suffering an opioid-related drug overdose is not subject to criminal prosecution, sanction under any professional licensing statute, or civil liability, for an act or omission resulting from the administration of the opioid antagonist.

(b) Emergency services personnel are authorized to administer an opioid antagonist to a person who appears to be suffering an opioid-related drug overdose, as clinically indicated.

Sec. 483.107. OPIOID ANTAGONIST TRAINING. A person, state agency, or political subdivision of the state that provides opioid antagonists to emergency services personnel for use in the regular course of providing emergency services shall provide those personnel with a course of instruction about:

- (1) overdose recognition and prevention; and
- (2) the administration of opioid antagonists, patient responses, and potential side effects.

Sec. 483.108. GRANTS. The Health and Human Services Commission and the criminal justice division of the governor's office may issue grants for:

- (1) drug overdose prevention;
- (2) recognition and response education for individuals, family members, and emergency services personnel; and
- (3) opioid antagonist prescription or distribution projects.

Sec. 483.109. CONFLICT OF LAW. To the extent of a conflict between this subchapter and another law, this subchapter controls.

No equivalent provision.

SECTION 13. (a) The change in law made by this Act relating to conduct that is grounds for imposition of a disciplinary sanction applies only to conduct that occurs on or after September 1, 2015.

(b) Conduct that occurs before September 1, 2015, is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION 14. (a) The change in law made by this Act relating to conduct that is the basis for civil liability applies only to conduct that occurs on or after September 1, 2015.

(b) Conduct that occurs before September 1, 2015, is governed by the law in effect on the date the conduct occurred, and the former law

is continued in effect for that purpose.

No equivalent provision.

SECTION 15. (a) The change in law made by this Act relating to conduct that constitutes a criminal offense applies only to an offense committed on or after September 1, 2015.

(b) For purposes of this section, an offense is committed before September 1, 2015, if any element of the offense occurs before that date.

(c) An offense committed before September 1, 2015, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

SECTION 12. This Act takes effect September 1, 2015.

SECTION 16. Same as introduced version.